BOARD MEMBERS

Robert E. Thomas

Chairperson

Latisha Johnson

Vice-Chairperson

Vivian Teague Rita Ross Robert G. Weed Emmanuel Calzada Elois Moore



City of Detroit
Board of Zoning Appeals
Coleman A. Young Municipal Center
2 Woodward Ave Suite 212
Detroit, Michigan 48226
(313) 224-3595

JAMES W. RIBBRON
Director

LYALL T. HOGGATT

Appeals Specialist

MINUTES OF THE BOARD OF ZONING APPEALS

A public hearing of the Board of Zoning Appeals was held on Tuesday **March 14, 2017** on the 13th Floor in the Auditorium, Coleman A. Young Municipal Building, 2 Woodward Avenue.

Chairperson Thomas called the meeting to order and Appeals Specialist Hoggatt called the roll at 9:00 a.m.

BOARD MEMBERS PRESENT:

- (1) Robert Thomas, Board Member
- (2) Elois Moore, Board Member
- (3) Vivian Teague, Board Member
- (4) Robert G. Weed, Board Member
- (5) Rita Ross, Board Member
- (6) Latisha Johnson, Board Member
- (7) Emmanuel Calzada, Board Member

BOARD MEMBERS ABSENT:

MINUTES:

Board Member Calzada made a motion to approve the minutes for February 28, 2017 and with corrections

Affirmative: Mr. Calzada

Ms.Teague, Moore, Johnson

Negative: None

PROCEDURAL MATTERS:

- (A) A motion was made, seconded and carried that the Director of the Board read into the record the notices, reports, letters, or any other information pro or con, on each individual case, and be filed and made a part of the record in each case.
- (B) A motion was made, seconded and carried that the appearance slips, be filled out by property owners or parties of interest who appeared at the public hearing, be filed in the individual case file and be made a part of the record in each case.
- (C) A motion was made, seconded, and carried that the recorded transcript of the proceedings of the various hearings, furnished by **BZA Staff**, be made part of the **MINUTES**.

9:15 a.m. **CASE NO.: 85-16**

APPLICANT: Kenneth S. Najor

LOCATION: 16541-55 Harper Ave. Between: Kensington Ave. and Whitter Ave. in a

B4 Zone (General Business District). - Council District #4

LEGAL DESCRIPTION OF PROPERTY: N HARPER 447 THRU 451 YORKSHIRE WOODS SUB NO 2 L46
P73 PLATS, W C R 21/289 100 IRREG

PROPOSAL:

Kenneth S. Najor appeals the decision of the Buildings Safety Engineering and Environmental Department's Correction Order dated September 1, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by Kenneth S. Nelson located at 16541 Harper has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of the Marvin L. Winans Academy of Performing Arts ("School") located at 9740 McKinney, Detroit, MI 48224. The school was legally established under permit #33113 obtained on April 2, 1940. Furthermore, during an inspection conducted on July 8, 2016, the building is still occupied and in good condition. The lot is well maintained. Therefore, because ADA EAST, the proposed MMCC at 16541-55 Harper is approximately 932 linear feet within the Marvin L. Winans Academy of Performing Arts radius, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD: Mr. Weed made a motion to Adjourn this case at petitioner request due to attorney on the case being unavailable to assist petitioner in presenting the case, with the condition that the establishment close until the jurisdiction of the next scheduled hearing. Support by Board Member Moore

Affirmative: Mr. Weed, Calzada, Thomas

Ms. Ross, Teague, Moore, Johnson

Negative:

9:45 a.m. **CASE NO.: 86-16**

APPLICANT: Michael Danner c/o Pollicella & Assoc. PLLC

LOCATION: 22635 Plymouth Rd. Between: Beaverland St. and Bramell a B4

Zone (General Business District). - Council District #7

LEGAL DESCRIPTION OF PROPERTY: S PLYMOUTH 3 THRU 12

FRISHKORNS CITY PARK SUB L54 P9 PLATS, W C R 22/294

200 X 100

PROPOSAL:

Michael Danner c/o Pollicella & Assoc. PLLC appeals the decision of the Buildings Safety Engineering and Environmental Department's Correction Order dated August 10, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by Michael Danner c/o Pollicella & Assoc. PLLC located at 22635 Plymouth has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of Rouge Park located at 21800 Jov Rd., Detroit, MI 48228, After careful consideration, BSEED has identified Rouge Park as an active site of the Detroit Parks and Recreation Department. Furthermore, Rouge park is included in a report, "2016 PARKS AND RECREATION IMPROVEMENT PLAN...". The report plans to implement 10 phases of capital improvements of which Rouge Park is scheduled for three (3) phases totaled at \$4,500,000.00 Therefore, because said Jadestone Enterprises is approximately 796 linear feet from Rouge Park, it is confirmed to be within a Drug Free Zone. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD: Mr. Calzada made a motion to Dismiss this case with prejudice at petitioner request. Support by Board Member Moore

Affirmative: Mr. Weed, Calzada, Thomas

Ms. Ross, Teague, Moore, Johnson

Negative:

DISMISSED WITH PREJUDICE

10:15 a.m. **CASE NO.: 87-16**

APPLICANT: Jenero Dawood c/o Pollicella, PLLC

LOCATION: 19390 Woodward Ave. Between: Carmel St. and Bryson St. in a B4 Zone

(General Business District). - Council District #2

LEGAL DESCRIPTION OF PROPERTY: E WOODWARD 6 THRU 1 STATE FAIR L28 P26

PLATS, W C R 1/182 261.96 IRREG 28034 SF

PROPOSAL:

Jenero Dawood c/o Pollicella, PLLC appeals the decision of the Buildings Safety Engineering and Environmental Department's Correction Order dated August 10, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed because Appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, Palmer Park is an active park with pedestrians frequenting it during the inspection conducted on June 14, 2016. Furthermore, Palmer Park is included in the report, "PARKS AND RECREATION IMPROVEMENT PLAN..." The report plans to implement 10 phases of capital improvements of which Palmer Park is in phase ten for \$1,000,000.00. Therefore, because your subject property is 960 linear feet away from Palmer Park, it is affirmed in a Drug Free Zone, contingent upon 1984 Detroit City Code 61-3-353(5). (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD: Mr. Weed made a motion to Dismiss this case with prejudice at petitioner request. Support by Board Member Ross

Affirmative: Mr. Weed, Calzada, Thomas

Ms. Ross, Teague, Moore, Johnson

Negative:

DISMISSED WITH PREJUDICE

10:45 a.m. **CASE NO.: 88-16**

APPLICANT: Ace Yono c/o Pollicello & Associates, PPLC

LOCATION: 24731 and 24605 W. Eight Mile Rd. Between: Shiawassee Dr. and Grandview

Ave. in a B4 Zone (General Business District). - Council District #1

LEGAL DESCRIPTION OF PROPERTY: THE EAST 140 FEET ON THE NORTH LINE, BEING THE

EAST 143.20 FEET ON THE SOUTH LINE OF THAT PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWN 1 SOUTH, RANGE 10 EAST, LYING WEST OF THE ADJOINING GRANDVIEW AVENUE, SOUTH OF AND ADJOINING EIGHT MILE RD (204 FEET WIDE) AND NORTH OF AND ADJOINING SHIAWASSE ROAD (66 FEET WIDE), EXCEPT SUCH PORTIONS THEREOF AS HAVE HERETOFORE BEEN TAKEN, USED OR DECIDED FOR STREET OR HIGHWAY PURPOSES.

PROPOSAL:

Ace Yono c/o Pollicello & Associates, PLLC appeals the decision of the **Buildings Safety Engineering and Environmental Department's Correction** Order dated August 10, 2016, which states; Discontinue use of premises as a Medical Marihuana Facility. No permit has been issued for the present use of the property, unlawful change of use of the building or land and each day an uncorrected and continued violation shall constitute a separate violation in a B4 zone (General Business District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center in a Drug Free Zone. The locational specifications related to drug-free zones of subsection 354(b)(1) of this section may not be waived or modified by the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals. Applications that are not consistent with the locational specifications of subsection (b)(1) of this section shall be considered ineligible and shall be dismissed. Also, the proposed (MMCC) by Ace Yono c/o Pollicello & Associates, PLLC located at 24731 and 24605 W. Eight Mile Rd. has been identified as being in a Drug Free Zone based on being within 1,000 radial feet of a Child Care Center named High Achievers Montessori located at 24331 W. Eight Mile Rd. The said Child Care Center was actively operating during the time of inspection, which was conducted on June 14, 2016. Furthermore, a permit was obtained to legally establish the use of the building as a Church/Day Care on July 12, 2001 through permit #48041. Therefore, because said Fire House Collective (subject property) is approximately 781 linear feet from the Day Care Center, it is an affirmed Drug Free Zone (DFZ) contingent upon section 61-3-353(2) of the Detroit City Code. (Sections 61-4-72 Appeals and 61-3-354(b)(1) Conditional Uses; Procedures; Waivers; Public Nuisance).AP

ACTION OF THE BOARD:

Mr. Ross made a motion to Affirm that the property is located in a Drug Free Zone. Support by Board Member Ross

Affirmative: Mr. Weed, Calzada, Thomas

Ms. Ross, Teague, Moore, Johnson

Negative:

AFFIRMED TO BE IN A DRUG FREE ZONE

CASE NO.: BSE&ED 27-16

APPLICANT: Vince Austin

LOCATION: 5700 E. Eight Mile Rd. Between: Syracuse Ave. and

Albany Ave. in a B4 Zone (General Business District).

- Council District #4

LEGAL DESCRIPTION OF PROPERTY: THE SOUTH 33 FEET OF

LOT 112, LOTS 109-111 NORTH HAMTRAMCK SUBDIVISION, LIBER 36, PAGE 68, PLATS, W.C.R. 107 X

138 (PIN 13009087.001)

PROPOSAL:

Vince Austin appeals the decision of the Buildings Safety Engineering and Environmental Department (BSEED 27-16) which (Approved With Conditions) TO establish a Medical Marihuana Caregiver Center (MMCC) in a 5,136 square foot portion of an existing 12.626 square foot building in a B4 zone (General Business District). This case is appealed because appeals to the Board of Zoning Appeals may be taken by any person, firm, partnership or corporation, or by any City department, commission, board or other City agency which is aggrieved 1) by a decision of an enforcing officer, or 2) by any decision made by the Buildings and Safety Engineering Department involving Conditional Uses. Also, the Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade) or a Religious Institution. (Sections 61-4-72 Appeals, 61-3-354 Conditional Uses: Procedures: Waivers: Public Nuisance.).AP

ACTION OF THE BOARD: Ms. Johnson made a motion to conclude that the church located at 20216 Albany was tax exempt at the time of application for the proposed MMCC located at 5700 E. Eight Mile Rd and therefore would require a spacing waiver by the Board of Zoning Appeals. Support by Board Member Teague

Affirmative: Mr. Weed, Thomas

Ms. Ross, Teague, Moore, Johnson

Negative:

Mr. Calzada was not present for the vote

Motion failed

CASE NO.: 67-16 (aka BSE&ED 17-16)

APPLICANT: Dino Industries, LLC c/o Vince Austin

LOCATION: 5540 E. 8 Mile Rd. Between: Caldwell St. and Buffalo

St. in a B4 Zone (General Business District). - Council

District #3

LEGAL DESCRIPTION OF PROPERTY: LOT 171, "KOLOWICH PARK

SUB" OF N.E. ¼ OF SEC. 5 T. 1 S., R. 12E. HAMTRAMCK TWP. (NOW DETROIT), WAYNE COUNTY RECORDS, 35

X 108

PROPOSAL:

Dino Industries, LLC c/o Vince Austin requests a variance of spacing and locational regulation TO establish a Medical Marihuana Caregiver Center (MMCC) in an existing approximate 1,000 square foot building which was Approved in (BSEED 17-16) in a B4 zone (General Business District). This case is appealed because The Buildings, Safety Engineering, and Environmental Department shall not approve any request under this Chapter for a medical marihuana caregiver center: One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use (other than arcade) or a Religious Institution. The proposed use in within 1,000 radial feet from one (1) Religious Institution (Brighter Day Baptist Church located at 5300 E. 8 Mile Rd. (591 feet away). Also, the Board of Zoning Appeals may modify any spacing or locational regulation, also known as a locational variance, in Sec. 61-12-87 of this (Sections 61-3-354 Conditional Procedures; Waivers; Public Nuisance, 61-12-92 Other uses-Spacing, 61-12-87 SPC (Spacing), 61-4-92(3) Other Variances, Variance of Spacing/Locational Regulation, 61-12-95 Waiver of General Spacing Requirements and 61-4-81 Approval Criteria).AP

ACTION OF THE BOARD: Ms. Johnson made a motion to GRANT spacing waiver for establishment of an MMCC at this location. Support by Board Member Calzada

Affirmative: Mr. Weed,

Ms. Teague, Johnson

Negative: Mr. Weed

Ms. Moore, Ross

Mr. Calzada was not present for the vote

SPACING WAIVER DENIED

Ms. Teague made a motion to take under ADVISEMENT to allow the absent Board Member (Calzada) to listen to audio of hearing and participate in the vote. Support by Board Member Johnson

Affirmative: Mr. Weed, Thomas

Ms. Teague, Johnson, Ross Moore

Negative:

Mr. Calzada was not present for the vote

TAKEN UNDER ADVISEMENT

ADVISEMENTS CONTINUED INDEFINITELY UNTIL FURTHER NOTICE.

There being no further business to be transacted, Board Member Johnson motioned that the meeting be adjourned. Board Member Moore seconded this motion which was unanimously carried and the meeting adjourned at 3:30 p.m.

RESPECTFULLY SUBMITTED

JAMES W. RIBBRON DIRECTOR

JWR/atp